

Regular Session, 2009

HOUSE BILL NO. 629

BY REPRESENTATIVE LANDRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FAMILY VIOLENCE: Provides relative to delays for the hearing of certain temporary restraining orders

1 AN ACT

2 To amend and reenact R.S. 46:2135(B) and (E) and Children's Code Article 1569(B) and  
3 (E), relative to temporary restraining orders in domestic abuse cases; to extend the  
4 period for the setting of the hearing of the rule to show cause; to extend the period  
5 for continuances of the rule to show cause; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 46:2135(B) and (E) are hereby amended and reenacted to read as  
8 follows:

9 §2135. Temporary restraining order

10 \* \* \*

11 B. If a temporary restraining order is granted without notice, the matter shall  
12 be set within ~~fifteen~~ twenty-one days for a rule to show cause why the protective  
13 order should not be issued, at which time the petitioner must prove the allegations  
14 of abuse by a preponderance of the evidence. The defendant shall be given notice  
15 of the temporary restraining order and the hearing on the rule to show cause by  
16 service of process as required by law within twenty-four hours of the issuance of the  
17 order.

18 \* \* \*

19 E. If the hearing pursuant to ~~R.S. 46:2135(B) or (D)~~ Subsection B or D of  
20 this Section is continued, the court shall make or extend such temporary restraining

orders as it deems necessary. Any continuance of a hearing ordered pursuant to ~~R.S.~~  
~~46:2135(B) or (D)~~ Subsection B or D of this Section shall not exceed ~~ten~~ fifteen  
 days, unless good cause is shown for further continuance.

\* \* \*

Section 2. Children's Code Article 1569(B) and (E) are hereby amended and  
 reenacted to read as follows:

Art. 1569. Temporary restraining order

\* \* \*

B. If a temporary restraining order is granted without notice, the matter shall  
 be set within ~~fifteen~~ twenty-one days for a rule to show cause why the protective  
 order should not be issued, at which time the petitioner must prove the allegations  
 of abuse by a preponderance of the evidence. The defendant shall be given notice  
 of the temporary restraining order and the hearing on the rule to show cause by  
 service of process as required by law.

\* \* \*

E. If the hearing pursuant to ~~Article 1570(B) or (D)~~ Paragraph B or D of this  
Article is continued, the court shall make or extend such temporary restraining order  
 as it deems necessary. Any continuance of a hearing ordered pursuant to ~~Article~~  
~~1570(B) or (D)~~ Paragraph B or D of this Article shall not exceed ~~ten~~ fifteen days,  
unless good cause is shown for further continuance.

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### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part  
 of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute  
 part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Landry

HB No. 629

**Abstract:** Relative to domestic abuse cases, extends the period within which to set a rule  
 to show cause on a temporary restraining order from 15 to 21 days and extends  
 continuances from a maximum of 10 days to a maximum of 15 days, unless good  
 cause is shown for further continuance.

Present law provides, relative to domestic abuse cases, that if a temporary restraining order  
 is granted without notice, the matter shall be set within 15 days for a rule to show cause why

the protective order should not be issued, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence.

Present law provides that the defendant shall be given notice of the temporary restraining order and the hearing on the rule to show cause by service of process as required by law within 24 hours of the issuance of the order.

Proposed law retains present law but provides that the rule to show cause shall be set within 21 days.

Present law provides that any continuance of the rule to show cause shall not exceed 10 days.

Proposed law authorizes continuances not to exceed 15 days unless good cause is shown for further continuance.

(Amends R.S. 46:2135(B) and (E) and Ch.C. Art. 1569(B) and (E))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Changes the delay within which to set the hearing on the temporary restraining order from 30 days to 21 days.
2. Adds amendments to Children's Code Article 1569(B) and (E) to correlate with the proposed legislation amending R.S. 46:2135(B) and (E).
3. Adds technical amendments to correct an inadvertent reference to an incorrect citation.